

E-ALERT | Communications and Media

March 24, 2010

COURT LIFTS BAN ON MEDIA OWNERSHIP RESTRICTIONS

Yesterday, the U.S. Court of Appeals for the Third Circuit, located in Philadelphia, lifted its stay of judicial review of the FCC's media ownership rules. The Court originally entered its stay back in 2004. The Court's action means that several requests for judicial review of the FCC's 2008 decision to modestly relax its newspaper-broadcast cross-ownership rule and to retain its local television ownership, or "duopoly" rule, will now be heard.

The former newspaper-broadcast cross-ownership rule, in effect since 1975, barred a single entity from owning a local television or radio station and daily newspaper in the same market. The 2008 relaxation of this rule would permit newspaper-broadcast combinations in the 20 largest markets, subject to a number of criteria and limitations. The duopoly rule, in effect since 1999, generally bars a single entity from owning two television stations in the same market ranked in the top four in ratings, and requires that eight independently-owned television stations remain in the market after a proposed television station combination. Covington is one of the firms representing media company parties that have challenged the FCC's retention of the duopoly rule.

The lifting of the stay also means that the slightly relaxed version of the 2008 newspaper-broadcast rule will go into effect pending Court review. We believe, however, that the effects of this will be minimal. The 2008 version of the rule essentially established waiver standards for parties to request FCC approval of certain newspaper-broadcast ownership combinations that would otherwise be barred, and called for the FCC to review proposed combinations on a case-by-case basis. The FCC is unlikely to approve any such transactions during the pendency of the case.

Media party briefs are due to the Third Circuit on May 17, 2010. Please let us know if you'd like to be kept apprised of further developments.

If you have any questions concerning the material discussed in this client alert, please contact the following members of our communications and media practice group:

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